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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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13 CORONAVIRUS REPORTER,
14 CALID INC,
15 PRIMARY PRODUCTIONS LLC,
16 DR. JEFFREY D. ISAACS,
17 on behalf of themselves and all others similarly
18 situated

19 Plaintiffs,

20 vs.

21 APPLE INC.,
22 FEDERAL TRADE COMMISSION

23 Defendants.
24
25
26
27
28

Case No. 3:21-cv-05567-EMC

NOTICE OF RELATED PETITIONS

Hearing

Date: November 4, 2021
Time: 1:30PM
Place: Courtroom 5, 17th Floor
(videoconference)

The Honorable Edward M. Chen

**NOTICE OF RELATED PETITIONS FOR WRIT OF CERTIORARI TO
UNITED STATES SUPREME COURT**

NOTICE IS HEREBY GIVEN of related cases, 21–592 (US) & 21–[Pending] (US), lodged last week with the United States Supreme Court.

The petitions explain how Gibson Dunn has improperly brought Apple into a decade-and-a-half conflict over a USC Medical Dean’s involvement in a federal bribery scandal, where an NIH officer used his control over federal funds to secure admission for his child into USC’s medical school.

The petitions relate to this case because they describe how Gibson Dunn cited sealed, false, and expunged records from the USC Medical School, with whom they are co-defendant in RICO charges, to dismiss this “landmark Apple antitrust case.” The petitions implore the Supreme Court to invoke original jurisdiction and assign a special master to ensure that those proceedings – and potentially this case – are not contaminated by Gibson Dunn’s political retaliation against Dr. Isaacs. The petitions further request the High Court issue a declaratory judgement on the matter, to avoid burdening this Court with a complex ancillary issue that has been touched by five different venues over fourteen years.

As described therein, the Petitions document how USC took the unusual step of hiring Gibson Dunn in a student dispute, in order to retaliate against Dr. Jeffrey Isaacs. Isaacs, the programmer for Coronavirus Reporter, and part of Dr. Roberts’ app team, had notified the White House in 2018 of an email spoliation matter involving World Bank President Jim Yong Kim. Within three months of said notice to the Executive Branch, Jim Yong Kim resigned from the Presidency. To retaliate, Gibson Dunn falsely stated that USC “never acquitted” Isaacs. Just several months ago, Gibson Dunn lied to the Ninth Circuit and outrageously claimed the acquittal “never had the intent of enforcement.” In short, years before this Apple case even began, USC and Gibson Dunn have been defending RICO claims involving evidence destruction, political retaliation, and witness intimidation.

In the present case, Gibson Dunn’s representation of Apple represents a true conflict, because the firm has improperly caused Apple to take a position, harmful to Dr. Isaacs, to support Gibson Dunn’s defense in that firm’s ongoing RICO charges. Counsel alerted the Court to this matter in a footnote in the pending injunction motion.

Specifically, Gibson Dunn’s Objection to Preliminary Injunction raised the Isaacs-USC matter for the first time in this case, by incorrectly stating that Apple was

1 unaware of any medical credentials of CALID on March 7, 2020. That is the date when
 2 Plaintiff Coronavirus Reporter first submitted its first-mover COVID-19 tracking app
 3 to the App Store. Based upon the false assertion that CALID had no known
 4 credentials, the pleading then pretextually justifies a litigation search to “unseal” long-
 5 acquitted records of Isaacs. Gibson Dunn suggests that the acquitted matter is
 6 somehow relevant to dismissing case, despite the fact that Dr. Isaacs, the app
 7 programmer, is Dr. Roberts’ junior and subordinate with regards to medical authority.
 8 Nonetheless, Gibson Dunn vengefully and illogically posits that a world-renowned
 9 physician, who invented the gold-standard test for heart attacks, couldn’t bring Dr.
 10 Isaacs into his team, because Apple would then be permitted by the Sherman Act to
 11 deny any app written by Isaacs. There can be little doubt Gibson Dunn unethically
 12 (perhaps without their knowledge) used Apple to assert a false, damaging, and rather
 13 desperate claim against Dr. Isaacs.¹

14 Apple’s own *Kosmyinka Declaration* (Dkt 34-1) evidences that on March 7, 2020,
 15 Apple was informed properly of CALID’s healthcare credentials:

16 “Dr Robert Roberts is Chief Medical Officer of CALID, Inc. ... [he] a) invented
 17 the gold standard screening for heart attacks used for thirty years, b) is head of
 18 University of Arizona's Translational Research Center, c) gave astronaut John
 19 Glenn medical clearance for the first earth orbit... CALID's team also includes
 20 [a physician]who has a decade ER experience and [an MD/MBA], who is also a
 21 computer scientist from Dartmouth and has developed apps that have served
 22 over 100 million users.”

23 Despite knowing that Apple had been informed of Dr. Roberts’ involvement on March
 24 7, 2020, Gibson Dunn proceeded to justify dismissal of this lawsuit based CALID’s
 25 credentials supposedly amounting to Dr. Isaacs’ sealed, acquitted USC records. This
 26 was done to further the RICO enterprise alleged by Dr. Isaacs since 2019 – and as
 27 such, was meant to bring Apple into that conflict. Indeed, testimony at the injunction
 28 hearing should reveal that Apple’s position is, in fact, quite different from Gibson
 Dunn’s.

¹ The matter has been adjudicated by several competent authorities, including the American Academy of Medical Colleges, who agreed that Isaacs’ record at USC had been sealed and acquitted. A New Hampshire Employment Tribunal concurred. Similarly, Dartmouth College’s Program Director Christine Finn testified in a deposition that she agreed with the AAMC’s ruling on the matter. Despite this, Dartmouth’s lawyers – and USC’s lawyers (Gibson Dunn) have used false pleadings forcing Isaacs to spend years trying to enforce the acquittal. Now, opposing counsel uses purported “Noerr-Pennington” immunity to harass Dr Isaacs via false pleadings and dismiss Sherman Act charges without a witness ever testifying. This is precisely why Plaintiffs have noticed the parties that Apple (Mr. Eddy Cue and Mr. Kosmyinka) must testify at the preliminary injunction hearing as to the truth of Gibson Dunn’s pleadings (on numerous additional grounds regarding contested Sherman elements).

1 Counsel requested a Meet & Confer with Gibson Dunn for a proposed Motion for
 2 Sanctions, which took place on September 1, 2021. Counsel advised Gibson Dunn that
 3 they falsely misrepresented CALID's medical team credentials, by purposely omitting
 4 Dr. Roberts' involvement. Counsel advised that Dr. Isaacs' credentials were knowingly
 5 misrepresented because Gibson Dunn, apparent administrator of Isaacs' USC academic
 6 records, knows that he was "acquitted of all charges of any nature whatsoever."
 7 Finally, counsel informed Gibson Dunn that Isaacs' medical credentials were "not
 8 relevant" because he was merely the app programmer, and deferred to Dr. Roberts on
 any medical decisions. Gibson Dunn refused to withdraw the false pleadings, and in
 fact, re-filed them nearly verbatim in response to the Amended Motion for Preliminary
 Injunction.

9 Counsel has made repeated, unanswered requests to Gibson Dunn to show proof of
 10 Apple's consent to represent them, in light of the witness conflict. Pursuant to Rule 3.7
 11 "Lawyer as Witness" of the State Bar of California, this is mandatory:

12 **Rule 3.7 Lawyer as Witness**

(Rule Approved by the Supreme Court, Effective November 1, 2018)

13
 14 (a) A lawyer shall not act as an advocate in a trial in which the lawyer is likely to be a
 15 witness unless: (3) the lawyer has obtained informed written consent* from the client.

16 The first petition, Exhibit A, documents the aforementioned false statements made to
 17 the Ninth Circuit by Opposing Counsel Gibson Dunn. The second petition, Exhibit B,
 18 concerns Gibson Dunn's improper use of California Anti-SLAPP to prevent Dr. Isaacs
 19 from enforcing a decade-and-a-half old USC agreement that acquitted him of an
 20 academic "attributes of a student physician" (rather than "harassment," as Gibson
 Dunn falsely pleaded) controversy.

21 The relevant portions discussing this case – about two pages in total – are herein
 22 reproduced for the convenience of all parties.

23
 24 ***Exhibit A Excerpts:***

25
 26 "In a landmark Apple developer class action antitrust case in the Northern
 27 California District, 21-cv-5567-EMC, Gibson Dunn has maliciously unsealed
 28 Dr. Isaacs' acquitted USC controversy once again, in an effort to dismiss that
 Sherman Act case on 12(b)(6) grounds. In February 2020, Dr. Isaacs was part of

1 a startup that invented the first COVID-19 smartphone tracking app. Apple
2 censored all startups from publishing COVID apps, and hence blocked
3 competing apps to favor their own app that, eighteen months later, remains
4 unavailable in most of the United States. The startup was led by renowned
5 cardiologist Dr. Robert Roberts, who invented the gold standard test for heart
6 attacks that saved immeasurable lives. Despite this seemingly incontrovertible
7 fact, Gibson Dunn employed their all-too-familiar DARVO tactics, and falsely
8 claimed the “vexatious” lawsuit was filed “with disregard for the law.”
Unwilling to even let Dr. Isaacs work on a COVID app with a Fields’ Medal
scientist, Gibson Dunn argued that the startup had unacceptable medical
credentials because of his acquitted 2006 Keck history.” *Page vi.*

9 “Not only is the interpretation of the settlement agreement relevant, but it is also
10 central to this case and nearly a dozen related cases, including now a landmark
11 Apple antitrust case.” *Page 7.*

12 “Worse yet, Gibson Dunn is actively quoting pleadings such as these in an
13 attempt to shield Apple from antitrust liability and prevent Dr. Isaacs from even
14 working on medical apps, let alone, practicing clinical medicine.” *Page 9.*

15 “For this reason alone, and in the interest of judicial economy in this case, and
16 related cases (including Apple), the United States Supreme Court should address
17 this declaratory matter directly, under the All Writs Act.” *Page 23.*

18 “Intervention by the United States Supreme Court is urgently indicated, because
19 this controversy has grown malignantly to include multiple state medical
20 authorities (AAMC & NH), educational institutions (USC, Dartmouth, Arizona),
21 the World Bank, multinational law firm Gibson Dunn, and now reaches its
tentacles into a landmark Apple antitrust actions (see simultaneously filed
petition.)” *Page 27.*

22 ***Exhibit B Excerpts:***

23 “Gibson Dunn seeks to dismiss a landmark Apple anti-trust lawsuit over
24 Petitioner’s contested medical credentials.” *Page ii.*

25 “Dartmouth’s counsel and Petitioner’s attorney Keith Mathews reached a verbal
26 agreement to “bury the hatchet” and meet to discuss re-enrollment with a
27 Dartmouth program. After Isaacs dismissed Dartmouth from the underlying
28 claim, Dartmouth failed to honor their verbal promise. The Court should assume
the underlying claims against Dartmouth and Jim Yong Kim will be re-raised.

1 As such, this case involves retaliation against Petitioner by a party that is/was a
2 United Nations senior consul or quasi-consul. Although Kim wasn't United
3 Nations World Bank President at the time of evidence spoliation, USC, Folt, and
4 Gibson Dunn enacted excessive political retaliation against Petitioner at least in
5 part on Dartmouth and Kim's be- half. In light of a compelling fourteen year
6 pattern of evidence spoliation, absurd anti-SLAPP filings, campus bans by
7 entertainment lawyers, and Ninth Circuit determinations that students can't file
8 retaliation claims, the Court may rightfully conclude that the Respondents-
9 Defendants exert undue influence in the lower courts. A special master may be
10 assigned to ensure the proper adjudication of this case, and the related Apple
11 case, under the United States' Supreme Court's original jurisdiction. Gibson
12 Dunn and Apple should not be able to 12(b)(6) a nationally important anti-trust
13 action filed by a world renowned scientist, simply because Petitioner was part of
14 said scientist's COVID-19 response team. The endless political persecution of
15 Petitioner, now at the highest of institutional significance, must be restrained."
16 *Page 32.*

17 Dated: October 25, 2021

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CERTIFICATE OF SERVICE

I, Keith Mathews, do declare as follows:

I certify that a copy of the foregoing was delivered electronically to counsel for the Defendants with counsel, and emailed to those without known counsel.

Executed on this 25th day of October 2021.

/s/ Keith Mathews

Keith Mathews
Attorney for Plaintiff Coronavirus Reporter